

BUSINESS REPORT

**MONTANA HOUSE OF REPRESENTATIVES
62nd LEGISLATURE - REGULAR SESSION**

HOUSE JUDICIARY COMMITTEE

Date: Friday, January 14, 2011
Place: Capitol

Time: 8:00 AM
Room: 137

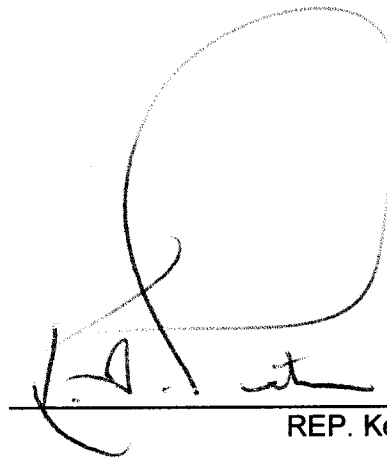
BILLS and RESOLUTIONS HEARD:

HB 149 - Define real party in interest for landlord tenant contracts
HB 199 - Establish procedures for landlord tenant actions in justice court
HB 200 - Provide for landlord tenant actions in small claims court

EXECUTIVE ACTION TAKEN:

HB 91 do pass
HB 81 do pass
HB 141 do pass
HB 167 do pass
HB 194 tabled

Comments:

A large, stylized handwritten signature in black ink, appearing to be 'Ken Peterson', is written over a horizontal line.

REP. Ken Peterson, Chair

HOUSE OF REPRESENTATIVES
Roll Call
JUDICIARY COMMITTEE

DATE: 1/14/2011

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. KEN PETERSON, CHAIR	✓	
REP. KRAYTON KERNS, VICE CHAIR	✓	
REP. DIANE SANDS, VICE CHAIR	✓	
REP. MIKE MENAHAN		✓ <i>exc</i>
REP. ROBYN DRISCOLL	✓	✓ <i>RR</i> exc
REP. KEITH REGIER	✓	
REP. DAN SKATTUM	✓	
REP. CLEVE LONEY	✓	
REP. MARGARET MACDONALD	✓	
REP. CAROLYN PEASE-LOPEZ	✓	
REP. MICHAEL MORE		✓ exc
REP. LIZ BANGERter	✓	
REP. WENDY WARBURTON	✓	
REP. BOB WAGNER	✓	
REP. ELLIE BOLDMAN HILL	✓	
REP. BILL HARRIS	✓	
REP. KRISTIN HANSEN	✓	
REP. DAVID HOWARD	✓	
REP. JESSE O'HARA	✓	
REP. JOE READ	✓	



HOUSE STANDING COMMITTEE REPORT

January 14, 2011

Page 1 of 3

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 81** (first reading copy -- white) do pass as amended.

Signed: 

Representative Ken Peterson, Chair

And, that such amendments read:

1. Title, line 5.

Following: "FUND;"

Insert: "PROVIDING FOR ORDERS AND JUDGMENTS REQUIRING PAYMENT
INTO THE FUND;"

2. Title, line 8.

Strike: "AND"

Insert: ", "

Following: "30-10-103,"

Insert: "AND 30-10-305,"

3. Title, line 9.

Strike: the second "AND"

Insert: ", "

Following: "DATE"

Insert: ", AND A TERMINATION DATE"

4. Page 2, line 2.

Strike: "under [section 3]"

Insert: "by [section 4]"

Committee Vote:

Yes 12, No 8

Fiscal Note Required ☐

HB0081001SC.hgh

ff 1/14/11
2pm

5. Page 3, lines 29 and 30.

Strike: "to implement [sections 1 through 8], including but not limited to rules"

6. Page 4, line 20.

Strike: "3"

Insert: "4"

7. Page 10.

Following: line 18

Insert: "Section 11. Section 30-10-305, MCA, is amended to read:

"30-10-305. Injunctions and other remedies -- limitations on actions. (1) If it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of parts 1 through 3 of this chapter or any rule or order under this chapter, the commissioner may:

(a) issue an order directing the person to cease and desist from continuing the act or practice after reasonable notice and opportunity for a hearing. The commissioner may issue a temporary order pending the hearing that:

(i) remains in effect until 10 days after the hearing hearings examiner issues proposed findings of fact and conclusions of law and a proposed order; or

(ii) becomes final if the person to whom notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(b) without the issuance of a cease and desist order, bring an action in any court of competent jurisdiction to enjoin any acts or practices and to enforce compliance with parts 1 through 3 of this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus must be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The commissioner may not be required to post a bond. If the commissioner prevails, the commissioner is entitled to reasonable ~~attorneys'~~ attorney fees as fixed by the court.

(2) A final judgment or decree, criminal or civil, determining that a person has violated parts 1 through 3 of this chapter in an action brought by the commissioner for the violation, other than a consent judgment or decree entered before trial, is prima facie evidence against that person in an action brought against the person under 30-10-307.

(3) The commissioner may, after giving reasonable notice and an opportunity for a hearing under this section, impose a fine not to exceed \$5,000 per violation upon a person found to

have engaged in any act or practice constituting a violation of any provision of parts 1 through 3 of this chapter or any rule or order issued under parts 1 through 3 of this chapter. The fine is in addition to all other penalties imposed by the laws of this state and must be collected by the commissioner in the name of the state of Montana and deposited in the general fund.

Imposition of any fine under this subsection is an order from which an appeal may be taken pursuant to 30-10-308. If any person fails to pay a fine referred to in this subsection, the amount of the fine is a lien upon all of the assets and property of the person in this state and may be recovered by suit by the commissioner and deposited in the general fund. Failure of the person to pay a fine also constitutes a forfeiture of the right to do business in this state under parts 1 through 3 of this chapter.

(4) (a) An administrative or civil action may not be maintained by the commissioner under this section to enforce a liability ~~founded~~ based on a violation of 30-10-201(1) through (3) or 30-10-202 unless it is brought within 2 years after the violation occurs.

(b) An administrative or civil action may not be maintained by the commissioner under this section to enforce a liability ~~founded~~ based on a violation of parts 1 through 3 of this chapter or any rule or order issued under this chapter, except 30-10-201(1) through (3) and 30-10-202, unless it is brought within 2 years after discovery by the commissioner or the commissioner's staff of the facts constituting the violation.

(c) An action may not be maintained under this section to enforce any liability founded on a violation of parts 1 through 3 of this chapter or any rule or order issued under this chapter unless it is brought within 5 years after the transaction on which the action is based.

(5) The commissioner in an administrative order requiring the payment of restitution or a court in a judicial order or judgment requiring payment of restitution may include a provision requiring a person determined to have violated any provision of parts 1 through 3 of this chapter to contribute an amount to the securities restitution assistance fund created by [section 4]."

Renumber: subsequent sections

8. Page 11.

Following: line 1

Insert: "NEW SECTION. Section 16. Termination. [This act] terminates June 30, 2017."

- END -

Karen



HOUSE STANDING COMMITTEE REPORT

January 14, 2011

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 71** (first reading copy -- white) do pass.

Signed: 

Representative Ken Peterson, Chair

- END -

Committee Vote:

Yes 13, No 7

Fiscal Note Required ☐

HB0071001SC.hgh

1/14/11
2pm



HOUSE STANDING COMMITTEE REPORT

January 14, 2011

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 167** (first reading copy -- white) do pass.

Signed. 

Representative Ken Peterson, Chair

- END -

Committee Vote:

Yes 15, No 5

Fiscal Note Required ☐

HB0167001SC.hgh

ND 2:46
1/14/11



HOUSE STANDING COMMITTEE REPORT

January 14, 2011

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 141** (first reading copy -- white) do pass.

Signed: 

Representative Ken Peterson, Chair

- END -

Committee Vote:

Yes 20, No 0

Fiscal Note Required ☐

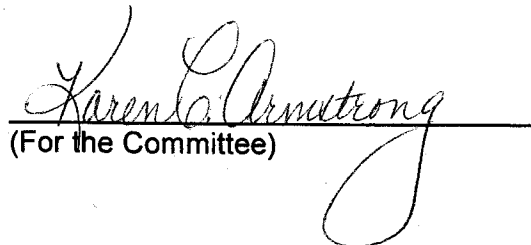
HB0141001SC.hgh


1/14/11
2pm

BILL TABLED NOTICE

HOUSE JUDICIARY COMMITTEE

The HOUSE JUDICIARY COMMITTEE TABLED HB 194 - Revise criminal accountability for DUI and negligent vehicular homicide, by motion, on Friday, January 14, 2011.


(For the Committee)


(For the Chief Clerk of the House)
1:16 / 1/14/11
(Time) (Date)

January 14, 2011

Karen Armstrong, Secretary

Phone: (406) 444-4607

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE: 1/14/2011 BILL NO. 81 MOTION NO. 1
MOTION: _____

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. KRAYTON KERNS, VICE CHAIR		✓	
REP. DIANE SANDS, VICE CHAIR	✓		
REP. MIKE MENAHAN	✓		
REP. ROBYN DRISCOLL	✓		
REP. KEITH REGIER	✓		
REP. DAN SKATTUM		✓	
REP. CLEVE LONEY		✓	
REP. MARGARET MACDONALD	✓		
REP. PEASE-LOPEZ	✓		
REP. MICHAEL MORE	✓		
REP. LIZ BANGERTER	✓		
REP. WENDY WARBURTON		✓	
REP. BOB WAGNER		✓	
REP. ELLIE BOLDMAN HILL	✓		
REP. BILL HARRIS		✓	
REP. KRISTIN HANSEN	✓		
REP. DAVID HOWARD		✓	
REP. JESSE O'HARA	✓		
REP. JOE READ		✓	
REP. KEN PETERSON, CHAIR	✓		

12 8

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE: 1/14/2011 BILL NO 71 MOTION NO. 1
 MOTION: _____

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. KRAYTON KERNS, VICE CHAIR	✓		
REP. DIANE SANDS, VICE CHAIR		x ✓	
REP. MIKE MENAHAN		x ✓	
REP. ROBYN DRISCOLL		x ✓	
REP. KEITH REGIER	✓		
REP. DAN SKATTUM	✓		
REP. CLEVE LONEY	✓		
REP. MARGARET MACDONALD		x ✓	
REP. PEASE-LOPEZ		x ✓	
REP. MICHAEL MORE	✓		
REP. LIZ BANGERTER		x ✓	
REP. WENDY Warburton	✓		
REP. BOB WAGNER	✓		
REP. ELLIE BOLDMAN HILL		x ✓	
REP. BILL HARRIS	✓		
REP. KRISTIN HANSEN	✓		
REP. DAVID HOWARD	✓		
REP. JESSE O'HARA	✓		
REP. JOE READ	✓		
REP. KEN PETERSON, CHAIR	✓		

13 7 no

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE: 1/14/2011 BILL NO. ~~167~~ 167 MOTION NO. 18
MOTION: amendment

<u>NAME</u>		AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. KRAYTON KERNS, VICE CHAIR			✓	
REP. DIANE SANDS, VICE CHAIR	x	✓		
REP. MIKE MENAHAN	x	✓		
REP. ROBYN DRISCOLL	x	✓		
REP. KEITH REGIER	x	✓		
REP. DAN SKATTUM			✓	
REP. CLEVE LONEY			✓	
REP. MARGARET MACDONALD	x	✓		
REP. PEASE-LOPEZ	x	✓		
REP. MICHAEL MORE			✓	
REP. LIZ BANGERTER	x	✓		
REP. WENDY WARBURTON			✓	
REP. BOB WAGNER			✓	
REP. ELLIE BOLDMAN HILL			✓	
REP. BILL HARRIS			✓	
REP. KRISTIN HANSEN			✓	
REP. DAVID HOWARD			✓	
REP. JESSE O'HARA			✓	
REP. JOE READ			✓	
REP. KEN PETERSON, CHAIR			✓	

7 yes 13 fails

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE: 1/14/2011 BILL NO. 167 MOTION NO. 2
MOTION: _____

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. KRAYTON KERNS, VICE CHAIR	✓		
REP. DIANE SANDS, VICE CHAIR		✓	
REP. MIKE MENAHAN		✓	
REP. ROBYN DRISCOLL		✓	
REP. KEITH REGIER	✓		
REP. DAN SKATTUM	✓		
REP. CLEVE LONEY	✓		
REP. MARGARET MACDONALD		✓	
REP. PEASE-LOPEZ	✓		
REP. MICHAEL MORE	✓		
REP. LIZ BANGERTER	✓		
REP. WENDY WARBURTON	✓		
REP. BOB WAGNER	✓		
REP. ELLIE BOLDMAN HILL		✓	
REP. BILL HARRIS	✓		
REP. KRISTIN HANSEN	✓		
REP. DAVID HOWARD	✓		
REP. JESSE O'HARA	✓		
REP. JOE READ	✓		
REP. KEN PETERSON, CHAIR	✓		

15 5 passes

MONTANA House of Representatives

Visitors Register

HOUSE JUDICIARY COMMITTEE

Friday, January 14, 2011

HB 149 - Define real party in interest for landlord tenant contracts

Sponsor: Representative Jesse O'Hara

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Friday, January 14, 2011

HB 199 - Establish procedures for landlord tenant actions in justice court

Sponsor: Representative Jesse O'Hara

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

HOUSE JUDICIARY COMMITTEE

HB 200 - Provide for landlord tenant actions in small claims court

Sponsor: Representative Jesse O'Hara

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.